

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED

JUN 08 2018

Clerk, U.S. District Court
District Of Montana
Missoula

JAY ALLEN NELSON,

Plaintiff,

vs.

COMMANDER JENNIFER ROOTE,
and NURSE TAMMI (last name
unknown),

Defendants.

CV 17-128-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered four Findings and Recommendations in this case on April 25, 2018 (Doc. 23) recommending that Defendant's motion for summary judgment be granted and this action be dismissed. Plaintiff Jay Allen Nelson ("Nelson") failed to timely object to Judge Lynch's findings and recommendations, and so waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). The Court will therefore review the record for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

After reviewing the record and finding no clear error, this Court agrees with Judge Lynch that Nelson did not exhaust his administrative remedies at the

Flathead County Detention Center as required by section 1997e(a). Therefore, he is precluded from making a § 1983 claim at this time.

Accordingly, IT IS ORDERED that Judge Lynch's Findings and Recommendations (Doc. 23) are ADOPTED IN FULL.

- (1) This matter is DISMISSED WITHOUT PREJUDICE.
- (2) The Clerk of Court is directed to close this matter and enter judgment in favor of Defendants pursuant to Rule 58 of the Federal Rules of Civil Procedure.
- (3) The Clerk of Court is directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith. No reasonable person could suppose an appeal would have merit. The record makes plain the instant Complaint lacks arguable substance in law or fact.

DATED this 8th day of June, 2018.



Dana L. Christensen, Chief Judge
United States District Court